

#4
PTO/PCT Rec'd 30 NOV 2000

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Allen W. Thorpe, et al.

GROUP:

SERIAL NO.: 09/463,001

EXAMINER:

FILED:

DOCKET NO.: 7387

FOR: (AS AMENDED) THERMAL PROTECTIVE STRUCTURES
AND METHODS OF MAKING THEM

35 U.S.C. § 371 of PCT/US98/14775, filed July 16, 1998

November 30, 2000

Box PCT - ATTN: PCT Legal Office
Assistant Director for Patents
Washington, D.C. 20231

**PETITION UNDER 37 CFR 1.47(a)
AND STATEMENT OF FACTS IN SUPPORT OF
FILING ON BEHALF OF NONSIGNING INVENTOR**

This paper is being filed in response to the Decision on Petition under 37 CFR 1.48(b) mailed May 30, 2000.

Applicants hereby petition under 37 CFR § 1.47(a) for acceptance of the above-identified application where one of the named inventors refuses to join in the application.

J. Philip Polster states on information and belief that the named inventor Malkit S. Deogon refuses to sign the declaration in the above-identified application.

This is a national phase (35 U.S.C. § 371) of PCT/US98/14775, filed July 16, 1998, which is a continuation-in-part of Serial No. 08/895,918, filed July 17, 1997, now United States Patent No. 6,001,437. The parent application, now patent, included claims

to a method of treating fiberglass fiber to increase its strength. Malkit S. Deogon was a

12/05/2000 ERIHANO 00000111 09463001

01 FC:122

130.00 0P

- 1 -

coinventor of at least some of the claims of that application and patent. The continuation-in-part PCT application contained claims to this invention as well as additional disclosure and claims directed to composite structures and methods involving those composite structures. Malkit S. Deogon is not an inventor or coinventor with respect to those composite structures or methods.

The present application was mailed to the Patent and Trademark Office on January 14, 2000, by Express Mail. Mailing receipt EL206122745US shows January 14, 2000 as the date in. The application was accompanied by a first preliminary amendment canceling all the claims of which Malkit S. Deogon was a coinventor, a petition to remove him as an inventor, and a declaration signed by the three remaining coinventors. The decision dismissing that petition issued May 30, 2000. The decision stated that a declaration signed by the non-signing inventor must be submitted before the petition was resubmitted.

Malkit S. Deogon has left the employment of the assignee, Nu-Chem, Inc., of Fenton, Missouri, and has moved to England. On July 25, 2000 I sent him a letter requesting that he sign the declaration, together with a copy of the PCT application and a declaration. According to Federal Express tracking records, he received and signed for this package July 27, 2000. On October 2, 2000 I again sent him an "urgent" letter by Federal Express requesting him to sign the application declaration and emphasizing the need to file it in the next few days. On October 6, 2000 he called me to say that he needed to talk with Rubin Feldman before signing the declaration. Rubin Feldman is a coinventor and is president of Nu-Chem, Inc. On information and belief he called Rubin Feldman some time later and indicated that he would probably sign the declaration. On

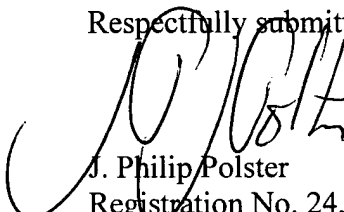
November 17, 2000, I sent him by Federal Express another copy of the declaration together with a Federal Express envelope and mailing label charging the cost of return postage to our firm. I have since then called a telephone number he gave Rubin Feldman and have been told that he was in a meeting and would call me back. On information and belief he today called Nu-Chem, Inc. and said that he could not talk to me until he had further discussions with Rubin Feldman.

Based on the foregoing facts, I state on information and belief that Malkit S. Deogon has refused to join in the above-identified application by signing the declaration. A continuation page of the originally filed declaration, signed by Rubin Feldman on behalf of Malkit S. Deogon is also enclosed. The page is attached to a copy of the declaration filed January 14, 2000.

The current address of Malkit S. Deogon is 23 Vicrage Road, Edgbaston, Birmingham B15 3HB, ENGLAND.

A petition fee of \$130 (37 CFR 1.17(i)) for this petition, a petition fee of \$65 (37 CFR 1.492(e)) for late filing of the declaration, and a four-month extension of time fee (37 CFR 1.17(a)(4)) for a four month extension of time are enclosed.

Respectfully submitted,



J. Philip Polster
Registration No. 24,739
POLSTER, LIEDER, WOODRUFF
& LUCCHESI, L.C.
763 South New Ballas Road
St. Louis, MO 63141
(314) 872-8118
(314) 991-2178 (fax)

ADDED PAGE TO COMBINED DECLARATION
AND POWER OF ATTORNEY FOR SIGNATURE BY JOINT INVENTOR(S)
ON BEHALF OF NONSIGNING INVENTOR(S) WHO REFUSE(S)
TO SIGN OR CANNOT BE REACHED (37 CFR 1.47(a))

I. I am an above named joint inventor and have signed this declaration on my own behalf and also sign this declaration under 37 CFR 1.47(a) on behalf of the nonsigning joint inventor, particulars for whom are:

Full name of (first, second, etc.) Malkit S. Deogon
nonsigning inventor who

☒ refuses to sign

☐ cannot be found or reached

United Kingdom
Country of Citizenship of nonsigning inventor

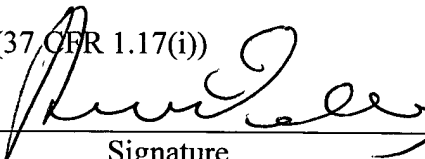
23 Vicrage Road, Edgbaston, Birmingham B15 3HB, ENGLAND
Last known address of nonsigning inventor

II. Accompanying this declaration is:

(1) A STATEMENT OF FACTS IN SUPPORT OF FILING ON BEHALF OF
NONSIGNING INVENTOR

(2) THE PETITION FEE OF \$130.00 (37 CFR 1.17(i))

Rubin Feldman
(Type or print name of joint inventor
signing on behalf of nonsigning
inventor)


Signature

11.30.00

Date

**DECLARATION AND POWER OF ATTORNEY
FOR PATENT APPLICATION**

As a below named inventor, I hereby declare that: My residence, post office address and citizenship are as stated below next to my name. I believe I am the original, first, and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled (AS AMENDED) THERMAL PROTECTIVE STRUCTURES AND METHODS OF MAKING THEM, the specification of which was described and claimed in PCT International Application No. PCT/US98/14775, filed July 16, 1998 and as amended under Article 34.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56(a).

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) or PCT International applications listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application.

U.S. Serial No. 08/895,918 Filed July 17, 1997 Now U.S. Patent 6,001,437

PCT/US98/14775 Filed July 16, 1998

18 I hereby appoint the following attorneys to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: Philip B. Polster, Reg. No. 16,554, Frederick M. Woodruff, Reg. No. 15,301, J. Philip Polster, Reg. No. 24,739, Lionel L. Lucchesi, Reg. No. 25,891, William G. Bruns, Reg. No. 19,541, Edward A. Boeschenstein, Reg. No. 22,986, William B. Cunningham, Jr., Reg. No. 26,155, Ralph B. Brick, Reg. No. 17,444, Michael Kovac, Reg. No. 22,140, McPherson D. Moore, Reg. No. 28,449, J. Joseph Muller, Reg. No. 28,450, Richard J. Sher, Reg. No. 27,282, Jonathan P. Soifer, Reg. No. 34,932, Ned W. Randle, Reg. No. 35,989, Martha A. Michaels, Reg. No. 20,453, Mark E. Books, Reg. No. 40,918, Catherine W. Wall, Reg. No. 42,209, and Philip B. Polster, II, Reg. No. 43,864.

Direct all telephone calls to J. Philip Polster at Telephone No. (314) 872-8118.

Address all correspondence to Customer Number 001688.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of First Inventor:

Allen W. Thorpe

Inventor's Signature:

Allen W Thorpe Date: 1-12-00

Residence:

City of Olivette

Citizenship:

United States of America

Post Office Address:

9458 La Jolla

Olivette, Missouri 63132 MO

Full name of Second Inventor:

Edward W. Taylor, Jr.

Inventor's Signature:

[Signature] Date: 1-12-00

Residence:

City of Ballwin

Citizenship:

United States of America

Post Office Address:

181 Tortuna Drive

Ballwin, Missouri 63021 MO

Full name of Third Inventor:

Rubin Feldman

Inventor's Signature:

[Signature] Date: 1-12-00

Residence:

City of Ladue

Citizenship:

United States of America

Post Office Address:

28 Sommerset Downs

Ladue, Missouri 63124 MO

PTO/PCT Rec'd 30 NOV 2000

JF

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Allen W. Thorpe, et al.

GROUP:

SERIAL NO.: 09/463,001

EXAMINER:

FILED:

DOCKET NO.: 7387

FOR: (AS AMENDED) THERMAL PROTECTIVE STRUCTURES
AND METHODS OF MAKING THEM

RECEIVED

05 DEC 2000

35 U.S.C. § 371 of PCT/US98/14775, filed July 16, 1998

Legal Staff

EXPRESS MAIL FILING CERTIFICATE

I hereby certify that the following Documents are being deposited with the United States Postal Service utilizing the "Express Mail Post Office to Addressee" service addressed to Assistant Director for Patents, Box PCT, ATTN: PCT Legal Office, Washington, D.C. 20231 on November 30, 2000.

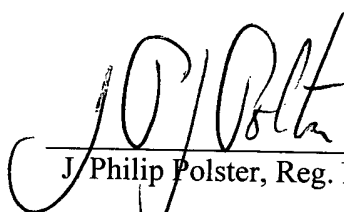
A Petition Under 37 CFR 1.47(a) and Statement of Facts in Support of Filing on Behalf of Nonsigning Inventor - Petition Fee: \$130.00 (37 CFR 1.17(i))

Added Page to Combined Declaration and Power of Attorney for Signature by Joint Inventor(s) on Behalf of Nonsigning Inventor(s) Who Refuse(s) to Sign or Cannot be Reached (37 CFR 1.47(a))

Surcharge for oath or declaration after twenty/thirty months from priority date - \$65.00

A Petition For Extension of Time for four months. - \$695.00

Check for \$890.00 for above fees


J. Philip Polster, Reg. No. 24,739

11/30/00
Date of Signature

Express Mail No: EL 782818107 US

Docket No.: 7387

Date: November 30, 2000

In re application of: Allen W. Thorpe, et al.

Serial No.: 09/463,001

Filed:

For: (AS AMENDED) THERMAL PROTECTIVE STRUCTURES AND
METHODS OF MAKING THEM

Box PCT - ATTN: PCT Legal Office
Assistant Director for Patents
Washington, D.C. 20231

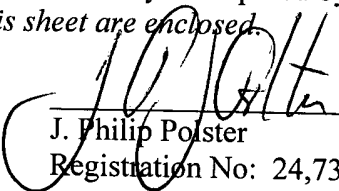
Sir:

Transmitted herewith is:

- ☒ An Express Mail Filing Certificate
- ☒ A Petition Under 37 CFR 1.47(a) and Statement of Facts in Support of Filing on Behalf of Nonsigning Inventor - Petition Fee: \$130.00 (37 CFR 1.17(i))
- ☒ Added Page to Combined Declaration and Power of Attorney for Signature by Joint Inventor(s) on Behalf of Nonsigning Inventor(s) Who Refuse(s) to Sign or Cannot be Reached (37 CFR 1.47(a))
- ☒ Surcharge for oath or declaration after twenty/thirty months from priority date - \$65.00
- ☒ A Petition For Extension of Time for four months. - \$695.00
- Verified Statement Claiming Small Entity Status:
 - ☐ Enclosed
 - ☒ Established/Statement Filed: January 14, 2000.

☐ A check in the amount of \$890.00 is attached.

The Commissioner is hereby authorized to charge any additional fees or credit overpayment under 37 CFR 1.16 and 1.17 which may be required by this paper to Deposit Account 162201. *Duplicate copies of this sheet are enclosed.*


J. Philip Polster

Registration No: 24,739